

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

(1) MICHAEL DELONG,

Plaintiff,

v.

Case No. 5:14-cv-01439-C

- (1) STATE OF OKLAHOMA *ex rel* THE  
OKLAHOMA DEPARTMENT OF  
MENTAL HEALTH AND  
SUBSTANCE ABUSE SERVICES;  
(2) THE BOARD OF DIRECTORS FOR  
THE OKLAHOMA DEPARTMENT  
OF MENTAL HEALTH AND  
SUBSTANCE ABUSE SERVICES;  
(3) TERRY WHITE, Commissioner and  
Chief Executive Officer of the  
Oklahoma Department of Mental  
Health And Substance Abuse  
Services;  
(4) DURAND CROSBY, Chief Operating  
Officer of the Oklahoma Department  
of Mental Health And Substance  
Abuse Services; and  
(5) CRATUS DEWAYNE MOORE,  
General Counsel of Oklahoma  
Department of Mental Health And  
Substance Abuse Services

Defendants.

**RESPONSE AND OBJECTION TO PLAINTIFF’S APPLICATION  
TO EXTEND ALL REMAINING DEADLINES BY DEFENDANTS  
STATE OF OKLAHOMA EX REL. THE OKLAHOMA DEPARTMENT OF  
MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES AND THE BOARD  
OF DIRECTORS FOR THE OKLAHOMA DEPARTMENT OF MENTAL  
HEALTH AND SUBSTANCE ABUSE SERVICES**

Defendants, the State of Oklahoma ex rel. The Oklahoma Department of Mental Health and Substance Abuse Services (“the Department”) and The Board of Directors for the Oklahoma Department of Mental Health and Substance Abuse Services (“the

Board”), respond and objection to the Application to Extend all Remaining Deadlines (Dkt. # 52) filed by Plaintiff Michael DeLong (“DeLong”).

While Defendants and their counsel are certainly empathic to the sudden and tragic death of the husband of the paralegal and office manager for Plaintiff’s counsel, Defendants cannot agree to a wholesale 90-day extension of all deadlines in this case, for the following reasons.

This case has been dragging along with little to no activity from Plaintiff’s side, basically since it was filed. This case was filed in August 2014 in Oklahoma County District Court. The Summons was not served until December 2014, right at the end of the statutory time for service. After Defendants removed the case and filed the first set of Motions to Dismiss, Plaintiff then chose to not contest the Motions, and filed an Amended Complaint. Defendants then had to file a second set of Motions to Dismiss. On April 29, 2015, the Court dismissed all claims against the individual Defendants, and all claims except a single claim as to the Defendants, Oklahoma Department of Mental Health and Substance Abuse Services and its Board. The only claim that the Court left pending against these Defendants was for alleged retaliation in the investigation of claims of sexual harassment. The Court held the Status and Scheduling Conference at the end of July 2015, and issued the current case schedule.

Defendants proceeded with serving their written discovery requests in August 2015. Defendants agreed to three extensions of the response deadline, due to the death in Plaintiff’s counsel’s family. Defendants asked for the depositions of Plaintiff for a date

in November 2015, and were told that the deposition could not be scheduled until the week of December 21 due to conflicts in Plaintiff's counsel's schedule.

Defendants' counsel met with Plaintiff's counsel on November 23, 2015, to discuss certain deficiencies in Plaintiff's discovery responses. The status of discovery was brought up at that time, and Defendant's counsel advised Plaintiff's counsel that an extension would not be agreed to (or even necessary) if she would serve any written discovery that she intended to serve, and also provide a list of witnesses that Plaintiff wanted to depose. Neither of those has been done to date.

Plaintiff's deposition was conducted on December 21, 2015. Defendants' counsel does not need any further depositions of witnesses. So, all that remains are depositions of Defendants' witnesses. Under the current schedule, the Discovery Cutoff is not until March 1, 2016. There is just a single employment law claim still pending. There is ample time in the next two months to complete discovery and remain on the current schedule. The only imminent deadline is that for Plaintiff's listing of expert witnesses and providing the reports, which is today, January 4, 2016. Defendants' counsel has agreed to a limited extension of up to two weeks for that to be done. It has not been stated what type of expert, or the name of any proposed experts, that Plaintiff intends to list. With only a single claim of alleged employment retaliation at issue, the only possible expert would be an economist or perhaps a medical doctor on the emotional distress claim. Certainly that work can be done in two weeks.

All told, there is not a justifiable reason to extend all deadlines by 90 days. Defendants want this case to reach a decision point and closure. This case has been

pending far too long as it is. Defendants request the Court to deny the current Motion to Extend the Remaining Deadlines.

Respectfully submitted,

/s/ Victor F. Albert

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VICTOR F. ALBERT, OBA #12069  
MATTHEW L. WARREN, OBA #31260  
CONNER & WINTERS, LLP  
1700 One Leadership Square  
211 North Robinson  
Oklahoma City, OK 73102  
Telephone: (405) 272-5711  
Facsimile: (405) 232-2695  
Email: [valbert@cwlaw.com](mailto:valbert@cwlaw.com)  
[mwarren@cwlaw.com](mailto:mwarren@cwlaw.com)

***Attorneys for Defendants The State of  
Oklahoma ex rel. the Oklahoma Department  
of Mental Health and Substance Abuse  
Services and The Board of Directors for the  
Oklahoma Department of Mental Health and  
Substance Abuse Services***

## **CERTIFICATE OF SERVICE**

I hereby certify that on January 4, 2016, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Rachel L. Bussett, OBA #19769  
Bussett Law Firm, PC  
3555 N.W. 58th Street, Suite 1010  
Oklahoma City, OK 73112  
Telephone: (405) 605-8073  
Facsimile: (405) 601-7765  
[rachel@bussettlaw.com](mailto:rachel@bussettlaw.com)  
*Attorney for Plaintiff*

Jeremy Tubb, OBA #16739  
Matthew S. Panach, OBA #22262  
FULLER, TUBB, BICKFORD & KRAHL  
201 Robert S. Kerr, Suite 1000  
Oklahoma City, OK 73102  
Telephone: (405) 235-2575  
Facsimile: (405) 232-8384  
[jeremy.tubb@fullertubb.com](mailto:jeremy.tubb@fullertubb.com)  
[panach@fullertubb.com](mailto:panach@fullertubb.com)  
*Attorneys for Defendants*  
*Terri White, Durand Crosby, and*  
*Cratus Dewayne Moore*

/s/ Victor F. Albert  
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VICTOR F. ALBERT